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STATE PROCUREMENT OFFICE NOTICE OF AND REQUEST FOR EXEMPTION FROM CHAPTER 103D, HRS

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1. TO: Chief Procurement Officer
2. FROM: Transportation/Harbors Division

DATE: JUNE 9, 2011

Department/Division/Agency

Pursuant to §103D-102(b)(4), HRS, and Chapter 3-120, HAR, the Department requests a procurement exemption to purchase the following:

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| <p>3. Description of goods, services or construction: Section 266-19.5, HRS, Private Financing of Harbor Improvements, allows a private party to construct improvements to DOT Harbor facilities, and be reimbursed when the DOT is able to appropriate funds through the regular budget process. Under the provisions of this Section, POP Fishing & Marine, LLC ("POP") will design and construct a methane mitigation system at Parcel 7, Domestic Commercial Fishing Village, Piers 36-38, Honolulu Harbor, Oahu (hereafter "Project"). POP will competitively bid the construction of the Project, and will be reimbursed for the construction improvements only (no profit allowed).</p> | |
| <p>4. Name of Vendor: POP Fishing & Marine, LLC Address: 1133 North Nimitz Highway Honolulu, Hawaii 96817</p> | <p>5. Price: \$200,000.00 (approx.) \$ 75,000 <i>17 per email</i></p> |
| <p>6. Term of Contract: From: Date of Approval To: 12/31/2012</p> | <p>7. Prior Exemption Ref. No. 0</p> |
| <p>8. Explanation describing how procurement by competitive means is either not practicable or not advantageous to the State: The Project will provide a State-mandated methane mitigation system at Parcel 7 to which POP is the sole leaseholder of Parcel 7. POP wishes to expedite the Project to meet their scheduled opening. Harbors Division believes that Section 266-19.5 will provide for this expedited schedule. It is not advantageous for the State to jeopardize POP's business interests by denying application of Section 266-19.5, HRS for expediting the Project.</p> | |
| <p>9. Details of the process or procedures to be followed in selecting the vendor to ensure maximum fair and open competition as practicable: POP will competitively bid the construction of the Project, and the Project will be awarded to the lowest responsive and responsible bidder. In addition, per discussions with DOT, POP shall be subject to the following provisions:</p> <ol style="list-style-type: none"> 1. POP shall comply with all applicable sections under Chapter 103D, HRS, including ACT 52, SLH 2003; 2. The DOT shall review and approve POP's bid documents; 3. The DOT shall review and approve the offerors' qualifications and the award of the contract; 4. The DOT shall review and approve any changes to the construction contract. | |
| <p>10. A description of the agency's internal controls and approval requirements for the exempted procurement: The Harbors Division will contract with POP to build the Project, and approvals will be reviewed by the Harbors Division and approved by the Director of Transportation.</p> | |

REQUEST FOR EXEMPTION FROM CHAPTER 103D, HRS (Cont.)

| 12. A list of agency personnel, by position, who will be involved in the approval process and administration of the contract: | | |
|---|-----------------------------|--|
| Name | Position | Involvement in Process |
| Jonathan Yee <i>JY</i> | Engineer | <input type="checkbox"/> Approval <input checked="" type="checkbox"/> Administration |
| Carter Luke <i>CL</i> | Engineering Program Manager | <input type="checkbox"/> Approval <input checked="" type="checkbox"/> Administration |
| Davis Yogi <i>DY</i> | Harbors Administrator | <input type="checkbox"/> Approval <input checked="" type="checkbox"/> Administration |
| Randy Grune <i>RG</i> | Deputy Director, Harbors | <input type="checkbox"/> Approval <input checked="" type="checkbox"/> Administration |
| Jadine Urasaki <i>JU</i> | Deputy Director, CIP | <input type="checkbox"/> Approval <input checked="" type="checkbox"/> Administration |
| Glenn Okimoto <i>GO</i> | Director of Transportation | <input checked="" type="checkbox"/> Approval <input type="checkbox"/> Administration |

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|--------------------------|--|
| 13. Direct inquiries to: | Department: Transportation/Harbors Contact Name: Randy Grune, Deputy Director Phone Number: 587-3650 Fax Number: 587-3652 |
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Agency shall ensure adherence to applicable administrative and statutory requirements

14. *I certify that the information provided above is, to the best of my knowledge, true and correct.*

[Signature]

 Department Head

JUN 20 2011

Date

Reserved for SPO Use Only

15. Date Notice Posted 6/27/11

The Chief Procurement Officer is in the process of reviewing this request for exemption from Chapter 103D, HRS. Submit written objections to this notice to issue an exemption from Chapter 103D, HRS, within seven calendar days or as otherwise allowed from the above posted date to:

Chief Procurement Officer
 State Procurement Office
 P.O. Box 119
 Honolulu, Hawaii 96810-0119

Chief Procurement Officer's comments:

This approval is limited only to exempting the department from complying with HRS chapter 103D for the selection of POP Fishing and Marine, LLC. The department has determined that it would be in the State's best interest to utilize a capital advancement contract, pursuant to HRS §266-19.5 to expedite the project at a cost savings to the State. This approval is for the solicitation process only, HRS section 103D-310(c) and HAR section 3-122-112, shall apply and award is required to be posted on the Awards Reporting System.

16.

APPROVED **DISAPPROVED** **NO ACTION REQUIRED**

[Signature] 7/7/2011
 Chief Procurement Officer Date